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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No.: FAA-2016-9526; Amdt. No. 121-377B]

RIN 2120-AK95

Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers; Related Aircraft Amendment; Technical Amendment

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; technical amendment.

SUMMARY: The FAA publishes this action to correct a minor, editorial error in a December 16, 2016 final rule on related aircraft proficiency checks. The FAA published a final rule to allow air carriers to seek a deviation from the flight simulation training device (FSTD) requirements for related aircraft proficiency checks. The rule eliminated an inconsistency that permitted carriers that have obtained FAA approval to modify the FSTD requirements for related aircraft differences training, but not for corresponding proficiency checks. As a result, the rule allowed air carriers to seek a deviation from the FSTD requirements for such proficiency checks based on a related aircraft designation and determination of an equivalent level of safety. This technical amendment removes a redundancy in the regulatory text that now exists as a result of the final rule.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

I. Good Cause for Immediate Adoption

Section 553(d)(3) of the Administrative Procedure Act (APA) requires publication of a substantive rule must be made not less than 30 days before the effective date except as provided by the agency for good cause found and published with the rule. Public notice and comment for this action are unnecessary because today's action only eliminates an unnecessary redundancy in 14 CFR 121.441(f), which the FAA amended on December 16, 2016, 81 FR 90979.

Good cause exists under section 553(d)(3) of the APA for this technical correction to become effective on the date of this action. Section 553(d)(3) allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period the APA prescribes is to give affected parties a reasonable time to adjust their actions and prepare for the effectiveness of the final rule.

Today's amendment, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. This document only removes an unnecessary redundancy in 14 CFR 121.441(f)(2)(iii) because the text of paragraph (f)(2)(iii) is largely duplicative of the text of paragraph (f)(2)(ii)(B). For these reasons, the FAA

finds good cause under APA section 553(d)(3) exists for this amendment to become effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

II. Background

On December 16, 2016, the FAA published the Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers; Related Aircraft Amendment. 81 FR 90979. Corrected at 81 FR 95860, December 29, 2016. This final rule allows air carriers to seek a deviation from the FSTD requirements for related aircraft proficiency checks. As the FAA noted in the final rule, the FAA's Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers final rule issued in 2013 included opportunities for air carriers to modify training program requirements for flightcrew members when the carrier operates multiple aircraft types with similar design and flight handling characteristics.

The final rule provided for the possibility of a deviation to allow credit for flightcrew member qualification requirements, including proficiency checks, when the carrier operates multiple aircraft types with similar design and flight handling characteristics. Paragraph (f) permits the Administrator to approve such a deviation based on a designation of related aircraft after the Administrator determines the certificate holder can demonstrate an equivalent level of safety. Specifically, paragraph (f) allows for deviation from the frequency of proficiency checks and from certain procedures and maneuvers required in appendix F to part 121 (Proficiency Check Requirements). Paragraph (f) did not, however, provide for the possibility of a deviation from the FSTD requirements specified in appendix F to part 121. Therefore, prior to the December 16, 2016 final rule, § 121.441(f) did not allow a deviation even in cases in which the

Flight Standardization Board (FSB) determines that the use of a lower level FSTD for a specific maneuver or procedure may be acceptable on a related aircraft proficiency check. This oversight resulted in inconsistency, as such a determination by the FSB would be based on similarities in design and flight characteristics between the base aircraft and the related aircraft. As a result, the FAA recognized a need to permit deviation from the FSTD requirements in appendix F to part 121. The December 16, 2016 final rule amended § 121.441 by amending paragraph (f), accordingly.

This technical amendment removes paragraph (f)(2)(iii) from § 121.441 because the FAA's recent changes to § 121.441 render the paragraph unnecessary. Paragraph (f)(2)(ii)(B) of § 121.441 requires the inclusion of maneuvers and procedures, as well as the level of FSTD to be used for each maneuver and procedure, in applications for deviation from the proficiency check requirements of § 121.441. Paragraph (f)(2)(iii) also states carriers must include maneuvers and procedures in related aircraft proficiency checks. As a result, although paragraph (f)(2)(iii) does not require a listing of the level of FSTD the carrier plans to use for each maneuver and procedure, the two paragraphs are unnecessarily redundant. Overall, the amended regulatory text will continue to ensure carriers that request a deviation based on a designation of related aircraft must include, for purposes of qualification proficiency checks, the necessary maneuvers and procedures as well as the level of FSTD to be used for each maneuver and procedure.

III. Technical Amendment

Consistent with the foregoing, the FAA removes paragraph (f)(2)(iii) to eliminate the redundancy in paragraphs (f)(2)(iii) and (f)(2)(ii)(B).

List of Subjects in 14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 121 as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112-95, sec. 412, 126 Stat. 89, 44101, 44701-44702, 44705, 44709-44711, 44713, 44716-44717, 44722, 44729, 44732, 46105; Pub. L. 111-216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112-95, 126 Stat. 62 (49 U.S.C. 44732 note).

§ 121.441 [Amended]

2. Amend § 121.441 by removing paragraph (f)(2)(iii).

Issued under authority provided by 49 U.S.C. 106(f) and 44701(a) in Washington, DC.

Lirio Liu,

Executive Director, Office of Rulemaking.

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